IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3884 OF 2006

Ananda Maruti Khot and ors. ..Petitioners

Vs.

Mahadeo Dewoo Patil and ors. ..Respondents

Mr. R.M. Haridas for petitioners.
Mr. S.R. Ganbavale h/f Mr. Sangramsinh Yadav for respondent nos.1 to 4.

CORAM: B.H. MARLAPALLE, J.

Date : July 17, 2006.

P.C.:

1. Heard the learned counsel for the petitioners-plaintiffs. They have filed Regular Civil Suit No.57 of 2005 for declaration and injunction in respect of the suit properties, namely, agricultural land bearing Gat Nos. 31, 41, 124, 140/B, 221, 140/A, 238, 208 and 166 and the house property bearing G.P. Nos. 54, 55, 95/1, 96, 97, 98/1, 98/2, 99/1 and 99/2 situated at village Hanbarwadi in Bhudargad Taluka of Kolhapur District. In the said suit the application filed for temporary injunction at Exh.5 was allowed by the learned Civil Judge, Senior Division, Gargoti on 22/10/2005 and Misc. Civil Appeal No.200 of 2005

challenging the said order has been partly allowed by vacating the injunction granted against defendant nos.3,6,7 and 18 in respect of Gat No.124 by the 6th Ad-hoc Additional District Judge, Kolhapur vide his Judgment and Order dated 13/4/2006. Hence this petition.

2. The Lower Appellate Court noted that the 7/12 extracts placed on record in respect of the agricultural land in Gat No.124 went to show that the names of defendant nos.1 and 2 were shown in ownership column since 1981-82 till 1984-85 and thereafter from the year 1985-86 onwards the names of defendant nos.3,6,7 and 18 were shown in the cultivation column in respect of the said land till the year 2004-05. The defendants claim that defendant nos.1 and 2 had purchased the land in Gat No.124 before the plaintiffs were born or during their minority and in any case the defendant nos.3,6,7 and 18 were cultivating the land right from the year 1985-86 onwards continuously. Pending the challenge to the sale transaction in respect of the agricultural land in Gat No.124 the Lower Appellate Court rightly set aside the order of

temporary injunction as the said defendants could not have been evicted just because the challenge to the sale deed was pending in the civil suit.

3. Hence no interference is called for in the order passed by the Lower Appellate Court modifying the injunction order and the petition is rejected summarily. Trial of the suit is hereby expedited.

(B.H. Marlapalle,J.)